

**REMARKS**

The Final Office Action dated July 26, 2004 has been considered. Favorable reconsideration and allowance of the subject application are respectfully requested in view of the following remarks.

**Summary of the Final Office Action**

In the Final Office Action, the Examiner alleges that claims 11-18, which were newly-submitted in the Amendment filed on May 10, 2004, are directed to an invention that is independent or distinct from the invention originally claimed in this application.

The Final Office Action then separates the newly-submitted claims 11-18 into two groups: Group I (claims 11-13 and 18) and Group II (claims 14-17). The Final Office Action alleges that Groups I and II are distinct, because they are unrelated for the reasons set forth in the bottom paragraph of page 4.

The Final Office Action then goes on to state that since Applicants have already received an action on the merits for the originally presented invention, this invention (i.e., claims 1-10) has been constructively elected by original presentation for prosecution on the merits. Accordingly, claims 11-18 have been withdrawn from consideration as being directed to a non-elected invention.

Claims 1-4 and 6-9 remain rejected under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent No. 5,483,532 to Eriksson.

Claims 5 and 10 remain rejected under 35 U.S.C. § 103(a) as being unpatentable over Eriksson as applied to claims 4 and 9 above, and further in view of U.S. Patent No. 6,504,845 to Peterson et al. (hereinafter "Peterson").

**Summary of the Response to the Final Office Action**

Applicants have canceled claims 11-18 without prejudice or disclaimer. Claims 1, 4, 6 and 9 are newly-amended and new claims 19-38 are added to differently describe embodiments of the instant application and to afford the Applicants with scope to which they are entitled. Accordingly, claims 1-10 and 19-38 are now pending for consideration.

**Restriction/Election Requirements and Constructive Election**

In the Final Office Action, the Examiner alleges that claims 11-18, which were newly-submitted in the Amendment filed on May 10, 2004, are directed to an invention that is independent or distinct from the invention originally claimed in this application. The Final Office Action then separates the newly-submitted claims 11-18 into two groups: Group I (claims 11-13 and 18) and Group II (claims 14-17). The Final Office Action alleges that Groups I and II are distinct, because they are unrelated for the reasons set forth in the bottom paragraph of page 4. The Final Office Action then goes on to state that since Applicants have already received an action on the merits for the originally presented invention, this invention (i.e., claims 1-10) has been constructively elected by original presentation for prosecution on the merits. Accordingly, claims 11-18 have been withdrawn from consideration as being directed to a non-elected invention.

It is respectfully submitted that the Restriction/Election Requirement of the July 26, 2004 Final Office Action does not comply with MPEP § 808 because the Examiner has provided only a mere statement of conclusion that claims 11-18 are “directed to an invention that is independent or distinct from the invention originally claimed.” In particular, while the Final Office Action appears to be presenting reasons supporting its restriction of Group I (claims 11-13 and 18) from Group II (claims 14-17) of newly-presented claims 11-18, there are no reasons

provided in support of the Examiner's allegations regarding why original claims 1-10 should be restricted from the newly-presented claims 11-18. Nevertheless, Applicants respectfully submit that the Election/Restriction requirements of the July 26, 2004 Final Office Action have been rendered moot by the cancellation of claims 11-18 in the instant Preliminary Amendment. Accordingly, withdrawal of the Election/Restriction requirements and associated issues are respectfully requested.

**Rejections under 35 U.S.C. §§ 102(b) and 103(a)**

In the Final Office Action, claims 1-4 and 6-9 remain rejected under 35 U.S.C. § 102(b) as being anticipated by Eriksson. Claims 5 and 10 remain rejected under 35 U.S.C. § 103(a) as being unpatentable over Eriksson as applied to claims 4 and 9 above, and further in view of Peterson. To the extent that these rejections might be deemed to apply to the claims as newly-amended, they are respectfully traversed as follows.

Applicants respectfully submit that Eriksson discloses a method of packeting data from sources of continuous data information together with data from sources of packet information in frames. In Fig. 2 of Eriksson, data packets DP1, DP2 and DP3, each having continuous data and discontinuous data, are shown. Each discontinuous data field PF1, PF2 and PF3 is placed in an area including the end portion of one packet and the beginning portion of the next packet. The end point of the one packet is pointed out by a pointer such as D1 placed in the one packet. The beginning point of the next packet is pointed out by a pointer such as D2 placed in the one packet.

However, Applicants respectfully submit that in each of the data packets DP1, DP2 and DP3 in Eriksson, the continuous data and the discontinuous data are located together with the

pointers. The pointers are not arranged at positions other than the data packets DP1, DP2 and DP3. In other words, Eriksson does not teach, or even suggest, a configuration corresponding to the feature that a main data portion and an additional data portion are formed at different positions of said data block, respectively, as recited in newly-amended independent claim 1 of the present application.

Even further, Applicants respectfully submit that Eriksson does not teach, or even suggest, information showing whether or not the pointer is valid. Eriksson discloses that “[t]he fields PF can contain data or empty spaces.” See col. 3, lines 41-42 of Eriksson. Eriksson also discloses that “[t]he field A is used in FIG. 1 for providing information with regard to whether the beginning of the packet field PF1 carries information or is empty.” See col. 3, lines 58-60 of Eriksson. However, Applicants respectfully submit that because Eriksson’s discontinuous data field PF does not correspond to the additional data portion as recited in claim 1 of the instant application, Eriksson does not teach, or even suggest, the additional data invalid information showing whether or not the additional data is valid. Similar arguments apply to newly-amended independent claims 4, 6 and 9.

Moreover, it is respectfully submitted that the Examiner did not address Applicants’ argument, as filed on May 10, 2004, that Eriksson’s discontinuous data fields PF1, PF2 and PF3, as shown in Fig. 2, either overlap with, or are placed between, data packets. The claims of the instant application recite that the data packets are provided within a “main data portion” and that the “additional data invalid information” is located outside of the “main data portion.” Accordingly, the “discontinuous data field” referred to by the Office Action does not meet the claimed limitations of “additional data invalid information” located outside of the “main data portion” because portions of the discontinuous data fields are located within the “main data

portion.” Moreover, the Final Office Action’s arguments at lines 2-7 of page 6 appear to interpret the discontinuous data field PF3 as being partly within a portion that Final Office Action interprets as a “main data portion” of Fig. 2 of Eriksson. In the event that these assertions be maintained in a further Office Communication, it is respectfully requested that these specific points be addressed, together with the remaining arguments of record.

As pointed out in the previous response, as a result of the specific arrangements and methodologies of the instant application’s disclosure, accurate reproduction can occur even if additional data regarding a partial packet to be located at the end of the main data portion exists in the additional data portion and no corresponding byte of information is present at the end of the main data portion. Such features are not obtained, nor even contemplated, by the arrangements disclosed in Eriksson.

Accordingly, Applicants respectfully assert that the rejection under 35 U.S.C. § 102(b) should be withdrawn because Eriksson does not teach or suggest each feature of independent claims 1, 4, 6 and 9, as amended. As pointed out in MPEP § 2131, “[t]o anticipate a claim, the reference must teach every element of the claim.” Thus, “[a] claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference. Verdegaal Bros. v. Union Oil Co. Of California, 2 USPQ 2d 1051, 1053 (Fed. Cir. 1987).” Furthermore, Applicants respectfully assert that dependent claims 2-3 and 7-8 are allowable at least because of the dependence from their respective independent claims 1 or 6, as amended, and the reasons set forth above.

With regard to the rejections of dependent claims 5 and 10 under 35 U.S.C. § 103(a), Applicant respectfully submits that these dependent claims are allowable for at least the same

reasons as newly-amended independent claims 4 and 9, respectively, and that Peterson fails to cure the deficiencies of Eriksson.

Applicants respectfully traverse the Final Office Action's assertion at page 6, lines 14-19 that Applicants' argument, as-filed on May 10, 2004, regarding the rejection under 35 U.S.C. § 103(a) "is just a general allegation that the prior art does not meet the limitations which does not comply with 37 CFR 1.111(b)." In particular, Applicants respectfully submit that very specific distinctions between Eriksson and particular limitations of the rejected independent claims were presented at pages 12-14 of the Amendment filed on May 10, 2004. With regard to the rejection of claims 5 and 10 under 35 U.S.C. § 103(a), Applicants complied with 37 C.F.R. § 1.111(b) by asserting that these dependent claims are allowable for at least the same reasons as independent claims 4 and 9, respectively, because the applied secondary reference to Peterson fails to cure the deficiencies of Eriksson which were specifically stated with regard to the independent claims at pages 12-14 of the Amendment. MPEP § 2143.03 instructs that "[t]o establish prima facie obviousness of a claimed invention, all the claim limitations must be taught or suggested by the prior art. In re Royka, 409 F.2d 981, 180 USPQ 580 (CCPA 1974)." Accordingly, Applicants' traversal of the rejection of the dependent claims under 35 U.S.C. § 103(a) was proper at least because of the dependence of claims 5 and 10 from independent claims 4 and 9, respectively, and the reasons set forth at pages 12-14 of the Amendment filed on May 10, 2004.

#### **Newly-Added Claims**

Applicants have added new claims 19-38 are added to differently described embodiments of the instant application and to afford the Applicants with scope to which they are entitled. Applicants respectfully submit that these claims are in condition for allowance for similar reasons as discussed above with regard to independent claim 1.

**Conclusion**

In view of the foregoing amendments and remarks, withdrawal of the rejections and allowance of the pending claims are earnestly solicited. Should there remain any questions or comments regarding this response or the application in general, the Examiner is urged to contact the undersigned at the number listed below.

If there are any other fees due in connection with the filing of this response, please charge the fees to our Deposit Account No. 50-0310. If a fee is required for an extension of time under 37 C.F.R. § 1.136 not accounted for above, such extension is requested and the fee should also be charged to our Deposit Account.

Respectfully submitted,

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